
Health Care Committee

SSB 5318

Brief Description: Improving patient safety practices.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Keiser, Kline, Franklin, Poulsen, McAuliffe and Kohl-Welles).

Brief Summary of Substitute Bill

- Creates the Patient Safety Account to fund patient safety and medical error reduction programs through funds raised by (1) a charge to health care providers and facilities, and (2) payment of 1 percent of plaintiff attorneys' fees in actions for injuries resulting from health care.
- Limits the use of evidence of offers to pay medical expenses, statements of apology, or remedial acts by a health care provider in an action for professional negligence.

Hearing Date: 2/16/06

Staff: Chris Blake (786-7392).

Background:

Quality Improvement and Patient Safety Measures

In 1999, the Institute of Medicine (Institute) reported that between 44,000 and 98,000 people die in the United States every year due to medical errors. At the federal level, the Agency for Healthcare Research and Quality (AHRQ) funds research to reduce medical errors and increase patient safety. In 2001, Congress appropriated almost \$50 million to the AHRQ to fund 94 grants related to health care work conditions, the use of information technology, medical errors data reporting, and other patient safety projects. In 2002 and 2003, the AHRQ received an additional \$55 million and \$60 million respectively for its patient safety initiatives.

In Washington, hospitals maintain quality improvement committees to improve the quality of health care services and prevent medical malpractice. Quality improvement proceedings review medical staff privileges and employee competency, collect information related to negative health care outcomes, and conduct safety improvement activities. Provider groups and medical facilities other than hospitals are encouraged to conduct similar activities.

Offers of Settlement

Under both a statute and a court rule, evidence of furnishing or offering to pay medical expenses needed as the result of an injury is not admissible in a civil action to prove liability for the injury. In addition, a court rule provides that evidence of offers of compromise is not admissible to prove liability for a claim. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

In 2002, the Legislature passed legislation that makes expressions of sympathy relating to the pain, suffering, or death of an injured person inadmissible in a civil trial. A statement of fault, however, is not made inadmissible under this provision.

Summary of Bill:

Patient Safety Account

The "Patient Safety Account" (Account) is created. The Account is to be funded in two ways. First, the Secretary of Health must collect a \$2 surcharge on licenses for 15 health professions and \$2 per licensed bed is charged to acute care hospitals and psychiatric hospitals. Second, 1 percent of the contingency fee for an attorney representing the prevailing plaintiff in an action for injuries resulting from health care must be provided to the Department of Health (Department) for transfer into the Account. If the set aside of attorney contingency fees is invalidated by the Washington State Supreme Court, then the attorney for a prevailing plaintiff must inform the plaintiff of the Account and their ability to contribute to the Account.

The Account is an appropriated account that is to be used for grants, loans, and other arrangements that support efforts to reduce medical errors and enhance patient safety. The Department must establish criteria for the types of programs to receive funds. The criteria must emphasize evidence-based practices recommended by governmental and private organizations including the AHRQ, the Institute, the Joint Commission on Accreditation of Health Care Organizations, and the National Quality Forum. At least two of the projects must implement recommendations of the Institute's report Keeping Patients Safe: Transforming the Work Environment of Nurses. Funding priority is given to projects that are proven to enhance patient safety and reduce medical errors as opposed to those that only have a substantial likelihood of doing so.

By December 1, 2008, the Department must report to the Legislature about the funds raised, criteria developed, and projects funded.

Statements of Apology

Limitations on the admissibility of evidence in civil proceedings of offers to pay medical expenses to prove liability against a health care provider for an injury in professional negligence cases are expanded to prohibit the admissibility of this evidence for any purposes. The admissibility of evidence against a health care provider in civil proceedings of: (1) statements or conduct expressing apology, fault, or sympathy; or (2) statements regarding remedial actions that may be taken to address the act or omission is prohibited as an admission of liability or an admission against interest.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.